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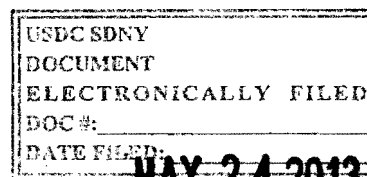
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May 23, 2013

**VIA FACSIMILE (212) 805-7991**

Honorable J. Paul Oetken  
United States District Court  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, New York 10007



**The Clerk of Court is Directed to:**

☐ Term motion (doc. #     )  
☒ Doc. and File As: Letter 2

Re: Koch v. Greenberg, Case No. 07-cv-9600 (JPO)

Dear Judge Oetken:

I write on behalf of Plaintiff William I. Koch ("Koch") in response to Defendant Eric Greenberg's ("Greenberg") May 23, 2013 letter seeking: (1) a six week extension of time in which to file his post-trial motions beyond the extension already granted by this Court, and (2) an enlargement of the page limits for briefing. Koch respectfully opposes both of Greenberg's requests.

First, the nearly three-week trial in this matter ended on April 12, 2013 (almost six years after Koch filed his original complaint against Greenberg). The rules contemplate relatively expedited consideration of post-trial motions. Thus, judgment is to be entered "promptly" upon the jury's verdict (Fed. R. Civ. P. 58(b)), and parties have 28 days after entry of judgment or after the jury is discharged to file Rule 50 and Rule 59 motions (Fed. R. Civ. P. 50(b), 59(b); see also *Ionian Shipping Co. v. Tyson Shipping Co.*, 49 F.R.D. 334, 336 (S.D.N.Y. 1969) (explaining that the former 10-day time limit in Rule 59 "is absolute and not subject to enlargement by the Court")).

As a professional courtesy, on May 3, 2013, Koch stipulated to Greenberg's request for an extended briefing schedule.<sup>1</sup> On May 7, 2013, the Court entered an order requiring that Greenberg's Motion be filed on or before May 31, 2013. (Dkt. # 480). There is no legitimate basis to change the schedule to which everyone recently agreed (much less to extend it by another six weeks).

<sup>1</sup> Koch reserves all rights to object to any post-trial motion filed by Greenberg, including on the basis that the motions are procedurally defective.

**IRELL & MANELLA LLP**

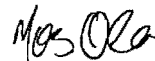
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The current post-trial briefing schedule gives Greenberg seven weeks after trial to to file his post-trial motions. Greenberg now seeks even more time despite himself proposing the briefing schedule he seeks to change. Greenberg's claimed rationale for yet another extension of time is that he has retained "additional counsel," who needs time to review the trial record. Greenberg was represented throughout these proceedings by two law firms and a number of skilled lawyers. That he has decided a little over a week before his motion is due to bring on anonymous "additional" (as opposed to "substitute") counsel, does not merit another extension of time. Nor is an extension merited because Koch will provide Greenberg with his opening and closing demonstratives on May 24, 2013. Greenberg has long had the full trial transcript in this case and his counsel has surely had enough time to identify any claimed objections. Koch is entitled to final resolution of his long-pending claims and the Court should deny Greenberg's request.

*Second*, Koch respectfully submits that the Court is well aware of the factual and legal issues implicated in this case, and 100 pages of additional briefing (Greenberg proposes 40-page opening and opposing briefs and a 20-page reply brief) is excessive.

Respectfully submitted,



Moez M. Kaba

cc: (via email)  
All Counsel of Record